

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-3, drawn to a fish feed.

Group II, claim(s) 4-8, drawn to a process of making the fish feed.

Group III, claim(s) 10, drawn to a method of raising fish.

Group IV, claim(s) 11, drawn to a second method of raising fish using an emulsion.

Group V, claim(s) 12, drawn to an aquatic animal having a digestive tract.

Group VI, claim(s) 13, drawn to milk powder.

Group VII, claim(s) 14, drawn to pureed food products.

Group VIII, claim(s) 15, drawn to a diacylglycerol compound.

The inventions listed as Groups I through VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule

Art Unit: 1794

13.2, they lack the same or corresponding special technical features for the following reasons:

The corresponding technical feature common to Groups I through VIII is the acylglycerol comprising mono and/or diacylglycerol of at least one fatty acid selected from EPA or DHA.

However, evidence of lack of unity between the groups is found in WIPO Patent WO 01/50884, cited of record by Applicant, which discloses the corresponding technical feature of the instant claims namely, a feed composition for aquaculture prey organisms that contains diglycerides "containing at least 20 wt% DHA and any such lipids synthesized chemically or enzymatically. Examples of naturally occurring DHA-rich lipid are tuna orbital oil (TOO) and lipids isolated from microbial cells having a high content of DHA, such as algae including *Chlorella* and *Cryptocodinium* species, certain yeast species such as *Saccharomyces*, *Mortierella*, *Schizochytrium* and *Thraustochytrium*. As an alternative to using naturally occurring DHA-rich lipids, such lipids can be synthesized chemically or enzymatically. In a useful embodiment of the invention such a lipid is provided as a glyceride by contacting DHA as a free fatty acid and glycerol in the presence of chemical catalysts or an enzyme capable of

Art Unit: 1794

forming glycerides from the I reactants, such as a lipase including a lipase isolated from *Candida antarctica*.” Page 5, lines 20-30.

As such, the special technical feature of the claimed invention is not found to define a contribution over the prior art and a restriction is therefore deemed proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Note that the non-patent literature references of the IDS filed 7/11/2005 are not of record in this file. However, the Examiner has been able to access and make of record the reference article of Tocher et al. only.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Sayala whose telephone number is (571) 272-1405. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/C. SAYALA/
Primary Examiner, Art Unit 1794**